

## § 503.21

instituted as deemed appropriate, including (but not limited to) the following:

(a) Institute administrative proceedings, including for: The recovery of unpaid wages (including recovery of prohibited recruitment fees paid or impermissible deductions from pay, and recovery of wages due for improperly placing workers in areas of employment or in occupations other than those identified on the *Application for Temporary Employment Certification* and for which a prevailing wage was not obtained); the enforcement of provisions of the job order, 8 U.S.C. 1184(c), 20 CFR part 655, Subpart A, or the regulations in this part; the assessment of a civil money penalty; make whole relief for any person who has been discriminated against; reinstatement and make whole relief for any U.S. worker who has been improperly rejected for employment, laid off or displaced; or debarment for no less than 1 or no more than 5 years.

(b) The remedies referenced in paragraph (a) of this section will be sought either directly from the employer, or from its successor in interest, or from the employer's agent or attorney, as appropriate.

### § 503.21 Concurrent actions.

OFLC has primary responsibility to make all determinations regarding the issuance, denial, or revocation of a labor certification as described in § 503.1(b) and in 20 CFR part 655, Subpart A. The WHD has primary responsibility to make all determinations regarding the enforcement functions as described in § 503.1(c). The taking of any one of the actions referred to above will not be a bar to the concurrent taking of any other action authorized by 8 U.S.C. 1184(c), 20 CFR part 655, Subpart A, or the regulations in this part. OFLC and the WHD have concurrent jurisdiction to impose a debarment remedy under 20 CFR 655.73 or under § 503.24.

### § 503.22 Representation of the Secretary.

The Solicitor of Labor, through authorized representatives, will represent the Administrator, WHD and the Secretary in all administrative hearings

## 29 CFR Ch. V (7–1–14 Edition)

under 8 U.S.C. 1184(c)(14) and the regulations in this part.

### § 503.23 Civil money penalty assessment.

(a) A civil money penalty may be assessed by the Administrator, WHD for each violation that meets the standards described in § 503.19. Each such violation involving the failure to pay an individual worker properly or to honor the terms or conditions of a worker's employment required by the *H-2B Registration, Application for Temporary Employment Certification*, or *H-2B Petition*, constitutes a separate violation. Civil money penalty amounts for such violations are determined as set forth in paragraphs (b) to (e) of this section.

(b) Upon determining that an employer has violated any provisions of § 503.16 related to wages, impermissible deductions or prohibited fees and expenses, the Administrator, WHD may assess civil money penalties that are equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker(s), not to exceed \$10,000 per violation.

(c) Upon determining that an employer has terminated by layoff or otherwise or has refused to employ any worker in violation of § 503.16(r), (t), or (v), within the periods described in those sections, the Administrator, WHD may assess civil money penalties that are equal to the wages that would have been earned but for the layoff or failure to hire, not to exceed \$10,000 per violation. No civil money penalty will be assessed, however, if the employee refused the job opportunity, or was terminated for lawful, job-related reasons.

(d) The Administrator, WHD may assess civil money penalties in an amount not to exceed \$10,000 per violation for any other violation that meets the standards described in § 503.19.

(e) In determining the amount of the civil money penalty to be assessed under paragraph (d) of this section, the Administrator, WHD will consider the type of violation committed and other relevant factors. In determining the level of penalties to be assessed, the highest penalties will be reserved for